

Appl. No. 10/654,228
Docket No. P127C
Amdt. dated November 15, 2007
Reply to Office Action mailed on April 16, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 3 are pending in the present application. No additional claims fee is believed to be due. Claim 1 has been amended to incorporate the language of now canceled claim 3. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 102 Over Hart

Claims 1 and 2 have been rejected under 35 U.S.C. § 102 as being anticipated by Hart (US Patent No. 6,133,317). Applicants respectfully traverse this rejection.

Hart is directed to:

[a]n oxalic acid or oxalate composition and method of treatment of warm blooded animals including humans and pets is provided which includes at least one therapeutically effective form of oxalic acid or oxalate selected, for example, from oxalic acid in a free acid, ester, lactone or salt form, oxalates including sodium oxalate, a nutritional supplement containing oxalic acid or oxalate, oxalic acid dehydrate, anhydrous oxalic acid, oxamide, oxalate salts, natural or processed foods including molds, plants or vegetables containing oxalic acid or oxalate, beverages, liquids or juices containing oxalic or oxalate, additives containing oxalic acid or oxalate, and combinations thereof.

Abstract. Hart, however, fails to teach each and every element of the claims. Hart fails to teach a diet comprising, on a dry matter basis, about 20 to 40% by weight protein, about 4 to 30% by weight fat, and about 1 to 11% total dietary fiber. Hart, therefore, fails to anticipate the claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 102 Over Allen

Claim 1 has been rejected under 35 U.S.C. § 102 as being anticipated by Allen (US Patent No. 5,965,153). Applicants respectfully traverse this rejection.

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Allen is directed to "[a] dietary supplement for animals, comprising safflower oil, sunflower oil, olive oil, soya oil, cod liver oil, lecithin, natural flavors, herbs, garlic, and zinc." *Abstract*. Allen, however, fails to teach each and every element of the claims. Allen fails to teach a diet comprising, on a dry matter basis, about 20 to 40% by weight protein, about 4 to 30% by weight fat, and about 1 to 11% total dietary fiber. Allen, therefore, fails to anticipate the claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 102 Over Lewandowski

Claim 1 has been rejected under 35 U.S.C. § 102 as being anticipated by Lewandowski (US Patent No. 5,976,549). Applicants respectfully traverse this rejection.

Lewandowski is directed to "[a]n oral hygienic compound and method for use in domesticated animals such as cats and dogs." *Abstract*. Lewandowski, however, fails to teach each and every element of the claims. Lewandowski fails to teach a diet comprising, on a dry matter basis, about 20 to 40% by weight protein, about 4 to 30% by weight fat, and about 1 to 11% total dietary fiber. Lewandowski, therefore, fails to anticipate the claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Shields

Claims 1 and 3 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Shields, Jr. et al (US Patent No. 6,156,355)("Shields"). Applicants respectfully traverse this rejection.

Shields is directed to:

[b]reed-specific dog food formulations that comprise chicken meat as the major ingredient, rice as the predominant (or sole) grain source, fruit and/or vegetable fiber as the primary or sole fiber source, unique fat and antioxidant blend, vitamins, herbs and spices, carotenoids, and no corn or artificial colors, preservatives, flavors or sugars are provided.

Abstract. Shields, however, fails to teach each element of the claims.

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Shields discloses dog food formulations that comprise chicken, rice, fruit and/or vegetable fiber, a fat and antioxidant blend, vitamins, herbs, spices and carotenoids. Some specific food formulations can be fortified with garlic. Shields only discloses that garlic may have some ability to inhibit growth of pathogenic microorganisms. An antimicrobial property, however, is different from a property of enhancing immune response. The fact that a substance has antimicrobial properties does not suggest that it enhances immune response.

Shields does not provide any expectation of success for using garlic to enhance immune response as Shields provides only limited disclosure regarding garlic and its use for its antioxidant activity, cardiac benefits and inhibition of growth of pathogenic organisms. Applicants respectfully request reconsideration and withdrawal of the rejection.

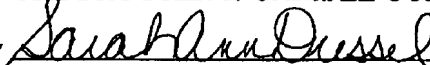
Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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